

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MUSTAFA A. WHITFIELD,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 06-541 GMS
	:	
WILMINGTON POLICE DEPARTMENT,	:	
	:	
Defendant.	:	

**DEFENDANT WILMINGTON POLICE DEPARTMENT’S MOTION FOR LEAVE TO
FILE A MEMORANDUM OF POINTS AND AUTHORITIES IN LIEU OF AN
ANSWERING BRIEF IN OPPOSITION TO PLAINTIFF’S MOTION TO WITHDRAW**

Defendant Wilmington Police Department, by and through its undersigned counsel hereby respectfully requests leave to file a Memorandum of Points and Authorities in Lieu of an Answering Brief in Opposition to Plaintiff’s Motion to Withdraw (the “Memorandum of Points and Authorities”).

1. On January 23, 2007, Plaintiff served Defendant’s counsel with a document entitled “Motion to Withdraw” [sic]. That document essentially appears to be a motion for voluntary dismissal pursuant to Fed.R.Civ.P. 41(a).

2. Dist. Ct. L.R. 7.1.2(b) provides that “[t]he Court may order or the parties may agree to serve and file . . . statements of points and authorities in memorandum form in place of briefs.”

3. The arguments set forth in the Defendant’s Memorandum of Points and Authorities do not require complex factual analysis. Further, Plaintiff’s Motion to Withdraw is an informal, one-page document which was unaccompanied by either a memorandum of points and authorities or an opening brief. Therefore, in the interest of judicial economy, the Defendant respectfully requests

leave to file a memorandum of points and authorities in lieu of an answering brief.

4. Due to the fact that Plaintiff is presently incarcerated, Defendant cannot ascertain his position with respect to its request for leave to file a memorandum of points and authorities.

WHEREFORE, the Defendant Wilmington Police Department respectfully requests permission to file a memorandum of points and authorities in lieu of an answering brief, pursuant to D. Del. L.R 7.1.2(b). An appropriate form of order is attached.

/s/ Andrea J. Faraone
Andrea J. Faraone, Esquire (I.D. #3831)
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City of Wilmington Law Department
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(302) 576-2175
Attorney for Defendant Wilmington Police Department

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WILMINGTON POLICE DEPARTMENT,	:	
	:	
Defendant.	:	

ORDER

IT IS HEREBY ORDERED that on this _____ day of _____, 2007, Defendant Wilmington Police Department's Motion for Leave to File a Memorandum of Points and Authorities in Lieu of an Answering Brief in Opposition to Plaintiff's Motion to Withdraw is GRANTED.

J.

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	:	
WILMINGTON POLICE DEPARTMENT,	:	
	:	
Defendant.	:	

CERTIFICATE OF SERVICE

I, Andrea J. Faraone, Esquire, hereby certify that on this 31st day of January, 2007, I filed the Defendant Wilmington Police Department's Motion for Leave to File a Memorandum of Points and Authorities in lieu of an Answering Brief in Opposition to Plaintiff's Motion to withdraw with the Clerk of Court using CM/ECF which will send notification of such filing(s) that this document is available for viewing and downloading from CM/ECF, I also mailed via U.S. Mail, postage pre-paid one copy to the following:

Mustafa A. Whitfield
S.B.I. #317479
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ Andrea J. Faraone
Andrea J. Faraone, Esquire (I.D. #3831)
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